

REMARKS

In the Office Action mailed from the United States Patent and Trademark Office on April 10, 2006, the Examiner rejected claims 94, 95, 97, 98, 100-112 and 114-116 under 35 U.S.C. 102(e) as being anticipated by Kravetz et al (United States Patent No. 6,397,196, hereinafter "Kravetz"), rejected claims 96, 97, 98, 109, 111, and 112 under 35 U.S.C. 103(a) as being unpatentable over Kravetz in view of an Official Notice, rejected claims 99 and 113 under 35 U.S.C. 103(a) as being unpatentable over Kravetz in view of Risafi et al (United States Patent No. 6,473,500, hereinafter "Risafi"), and rejected claim 117 under 35 U.S.C. 103(a) as being unpatentable over Kravetz in view of an article by Rusty Cawley ("New Texas Capital product marries payroll, ATMs", hereinafter "Cawley"). Accordingly, Applicant respectfully provides the following:

Rejections under 35 U.S.C. 102

In the Office Action, the Examiner rejected claims 94, 95, 97, 98, 100-112 and 114-116 under 35 U.S.C. 102(e) as being anticipated by Kravetz. Applicant respectfully submits that the claim set as provided herein is not anticipated by the cited references.

The standard for a Section 102 rejection is set forth in M.P.E.P 706.02, which provides:

"... for anticipation under 35 U.S.C. 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly. Any feature not directly taught must be inherently present."

Applicant respectfully submits that the cited reference does not teach every aspect of the amended claim set as provided herein and therefore does not anticipate the claims of the present invention. In particular, independent claim 94 recites a method of providing a payroll advance

on an as-needed basis, the method comprising: receiving an electronic request from an employee for a payroll advance against the wages of said employee, wherein said wages have been earned by said employee but not yet paid by an employer of said employee; authorizing a distribution of said payroll advance based upon said electronic request; automatically distributing said payroll advance to said employee; and deducting said payroll advance from a future wage payment to said employee. Independent claim 107 includes similar limitations. Such limitations are supported by the disclosure as originally filed.

In contrast, Kravetz does not explicitly or impliedly teach every aspect of the claimed invention. For example, rather than receiving an electronic request from an employee for a payroll advance against the wages of said employee, wherein said wages have been earned by said employee but not yet paid by an employer of said employee, Kravetz teaches an automatic payroll deduction that does not stop after a loan balance is paid in full – it continues so that savings is accrued in the account. (see column 4, lines 5-12).

For at least this reason, Applicant respectfully submits that Kravetz does not explicitly or impliedly teach every aspect of the invention as claimed in the independent base claims. In addition, the dependent claims place further limitations on otherwise allowable subject matter. Accordingly, Applicant respectfully submits that the cited reference does not teach every aspect of the claims as provided herein and therefore does not anticipate the claims as provided herein.

Rejections under 35 U.S.C. 103

The Examiner rejected claims 96, 97, 98, 109, 111, and 112 under 35 U.S.C. 103(a) as being unpatentable over Kravetz in view of an Official Notice, rejected claims 99 and 113 under

35 U.S.C. 103(a) as being unpatentable over Kravetz in view of Risafi, and rejected claim 117 under 35 U.S.C. 103(a) as being unpatentable over Kravetz in view of Cawley. Applicant respectfully submits that the claim set as provided herein is not made obvious by the cited references.

The standard for a Section 103 rejection is set for in M.P.E.P 706.02(j), which provides:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, **the prior art reference (or references when combined) must teach or suggest all the claim limitations.** The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). (Emphasis added).

Applicant respectfully submits that the references cited by the Examiner do not teach or suggest the limitations claimed in the present invention. In particular, independent claim 94 recites a method of providing a payroll advance on an as-needed basis, the method comprising: receiving an electronic request from an employee for a payroll advance against the wages of said employee, wherein said wages have been earned by said employee but not yet paid by an employer of said employee; authorizing a distribution of said payroll advance based upon said electronic request; automatically distributing said payroll advance to said employee; and deducting said payroll advance from a future wage payment to said employee. Independent claim 107 includes similar limitations. As provided above, such limitations are supported by the disclosure as originally filed.

In contrast, the references cited by the Examiner, alone or in combination, do not teach or suggest all the claim limitations. For at least this reason, Applicant respectfully submits that the references cited by the Examiner, alone or in combination, do not teach or suggest all the claim limitations of the independent base claims. And, since the references cited by the Examiner do not teach or suggest each and every limitation of the independent claims, Applicant respectfully submits that the prior art references do not make obvious the independent claims as provided herein. And since the prior art references do not make obvious the independent claims, Applicant respectfully submits that the prior art references cited by the Examiner do not make obvious the corresponding dependent claims, which depend from the independent base claims.

Thus, Applicant respectfully submits that for at least the reasons provided herein, the claim set as provided herein overcomes all rejections made by the Examiner in the Office Action.

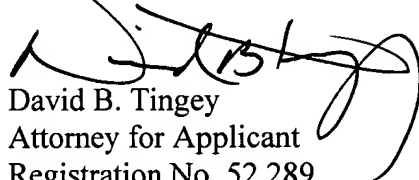
PATENT APPLICATION
Serial No. 09/782,756
Docket No. 11129.2

CONCLUSION

Applicant submits that the amendments made herein do not add new matter and that the claims are now in condition for allowance. Accordingly, Applicant requests favorable reconsideration. If the Examiner has any questions or concerns regarding this communication, the Examiner is invited to call the undersigned.

DATED this 10th day of August, 2006.

Respectfully submitted,



David B. Tingey
Attorney for Applicant
Registration No. 52,289

KIRTON & McCONKIE
1800 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111
Telephone: (801) 323-5986
Facsimile: (801) 321-4893

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